

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ROEGINA PEREZ

Plaintiff,

v.

HERCULES FOUNDATION REPAIR,
LLC,

Defendant.

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Civil Action No. 21-243

PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND

For her Original Complaint against Defendant Hercules Foundation Repair, LLC, Plaintiff Roegina Perez shows the following:

Introduction

1. This is an action for unpaid overtime compensation under the Fair Labor Standards Act (FLSA). Plaintiff Roegina Perez has been employed by Defendant Hercules Foundation Repair, LLC, in a non-exempt position. However, Defendant failed to pay Plaintiff overtime compensation in accordance with the Fair Labor Standards Act. Plaintiff now sues for damages.

Parties

2. Plaintiff Roegina Perez is an individual residing at 100 Mayfair Dr. Apt 6B, Converse, Texas 78109. She may be served with papers through the undersigned counsel.

3. Defendant Hercules Foundation Repair, LLC is a limited liability company organized under the laws of the State of Texas. According to the Texas Secretary of State, Defendant's principal place of business is located at 19115 FM 2252 Ste. 20, Garden Ridge, Texas

78266. It may be served with process through its Registered Agent, William Chase, at 19115 FM 2252, Ste. 20, Garden Ridge, Texas 78266.

Jurisdiction and Venue

4. The Court possesses personal jurisdiction over Defendant Hercules Foundation Repair, LLC because Defendant is organized under the laws of the State of Texas and because this Defendant maintains its principal place of business in Texas and continuously operates in Texas. The Court possesses subject-matter jurisdiction pursuant to 28 U.S.C. Section 1331 because this action is brought pursuant to a federal statute, the Fair Labor Standards Act. Venue is proper in the Western District of Texas because Plaintiff worked for Defendant in New Braunfels, Texas, which is in the geographic confines of the San Antonio Division of the Western District of Texas

Cause of Action: Violations of the Overtime Provisions of the FLSA

5. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 4 supra.

6. Defendant Hercules Foundation Repair LLC is a foundation repair business operating in the San Antonio Metropolitan Area.

7. At all times relevant to this lawsuit, Defendant was an employer within the meaning of the Fair Labor Standards Act and was the employer of Plaintiff. Defendant has engaged in interstate commerce, and has had gross annual sales in excess of \$500,000.00 in all years relevant to this lawsuit.

8. From January 28, 2020 to January 11, 2021, Plaintiff was employed by Defendant as an office assistant. Defendant misclassified Plaintiff as a contractor paid on a “salary” basis. While employed by Defendant, Plaintiff directly engaged in interstate commerce.

9. At all times relevant to this lawsuit, Plaintiff was a non-exempt employee, meaning that she was not exempt from the minimum wage and overtime provisions of the FLSA. Plaintiff did not perform exempt duties under any of the exemptions recognized by the FLSA, and in any event, Defendant docked Plaintiff's salary when she was absent. Despite her non-exempt status, Plaintiff has not been paid an overtime premium in those workweeks when she has worked in excess of 40 hours over the last three years. As such, Plaintiff is owed the FLSA-mandated overtime premium for all hours worked over 40 in any workweek. Plaintiff calculates that she worked almost 317 hours of overtime for which she was not paid the federally-mandated overtime premium.

10. Plaintiff also contends that she is owed an equal amount in liquidated damages because Defendants cannot establish a "good faith" defense under 29 U.S.C Section 260. Finally, because Plaintiff has had to retain counsel to prosecute this action, she is entitled to an award of attorney fees.

Jury Demand

11. Plaintiff demands a trial by jury.

Conclusion and Prayer

12. Plaintiff prays that, upon final judgment, she be awarded the following:

- a. Unpaid overtime;
- b. Liquidated damages;
- c. Attorney fees;
- d. Costs of court and litigation expenses;
- e. Post-judgment interest; and
- f. All other relief to which Plaintiff is entitled.

Respectfully submitted,

/s/ MICHAEL V. GALO, JR.

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